

**AMENDED AND RESTATED  
2003A SECURED LOAN AGREEMENT**

**Dated April 27, 2005**

**Between**

**CALIFORNIA INFRASTRUCTURE AND  
ECONOMIC DEVELOPMENT BANK**

**And**

**CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION**

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**AMENDED AND RESTATED  
2003A SECURED LOAN AGREEMENT**

This AMENDED AND RESTATED 2003A SECURED LOAN AGREEMENT (the "Secured Loan Agreement" or "Agreement"), dated April 27, 2005, is made and entered into by and between the CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK, an entity within the Business, Transportation and Housing Agency of the State of California (the "Issuer") and successor to the California Consumer Power and Conservation Financing Authority (the "Authority"), and the CALIFORNIA ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION, a commission of the State of California (the "Energy Commission").

**RECITALS**

WHEREAS, the Authority and the Energy Commission entered into a certain 2003A Secured Loan Agreement, dated April 1, 2003 (the "Original 2003A Secured Loan Agreement") in connection with the issuance of the Series 2003A Bonds described below;

WHEREAS, since 1979, the Energy Commission has made energy efficiency loans from the Energy Conservation Assistance Account created pursuant to the Energy Conservation Assistance Act of 1979, California Public Resources Code Division 15, Chapter 5.2 (Sections 25410-25421) (the "Energy Conservation Assistance Act"), to schools, hospitals and public care institutions and units of local government, in order to finance the costs of the design, acquisition, installation and implementation of energy efficiency projects (the "Program"), which loans are repayable from energy savings and any other legally available sources;

WHEREAS, the Authority, pursuant to California Public Utilities Code Division 1.5 (Section 3300-3384) (the "Authority Act"), was authorized to finance energy efficiency loan programs administered by the Energy Commission and, on April 10, 2003, upon the request of the Energy Commission, issued its Energy Efficiency Master Trust Revenue Bonds, Series 2003A, dated April 1, 2003 (the "Series 2003A Bonds") in the principal amount of \$28,005,000 to provide financing for the Program;

WHEREAS, the Issuer was established pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act, constituting Division 1 of Title 6.7 of the California Government Code (commencing with Section 63000 thereof), as now in effect and as it may be amended or supplemented (the "Infrastructure Bank Act");

WHEREAS, the funding for the Authority was eliminated in late 2004 and its obligations assumed by other State agencies, and on October 25, 2004, the Authority assigned to the Issuer its rights and responsibilities with respect to the 2003A Bonds;

WHEREAS, in connection with this assignment, the Energy Commission and the Authority executed a First Amendment to 2003A Secured Loan Agreement, dated October 25, 2004 (the "First Amendment to 2003A Secured Loan Agreement"). The Original 2003A

Secured Loan Agreement, as amended by the First Amendment to 2003A Secured Loan Agreement, is referred to herein as the “2003A Secured Loan Agreement;”

WHEREAS, the Issuer, pursuant to the Infrastructure Bank Act, is authorized to provide funding for the Program, and the Energy Commission has requested that the Issuer issue its revenue bonds to provide additional funding for the Program;

WHEREAS, the California State Treasurer (the “Treasurer”), as trustee under the 2003A Bond Indenture, dated April 1, 2003 between the Authority and the Treasurer, as amended by the First Supplemental 2003A Bond Indenture, dated October 25, 2004, to reflect the assignment described above from the Authority to the Issuer (as so amended, the “2003A Bond Indenture”), and as master trustee under the Master Trust Agreement, dated April 1, 2003, among the Authority, the Energy Commission and the Treasurer, as amended by the First Supplemental Master Trust Agreement, dated October 25, 2004, to reflect the assignment from the Authority to the Issuer (as so amended, the “Master Trust Agreement”), was replaced by J.P. Morgan Trust Company, National Association, as successor trustee (the “Trustee”), on April 27, 2005;

WHEREAS, the Issuer has authorized the execution of a 2005A Bond Indenture to provide for the issuance of a second Series of Bonds in the principal amount of \$36,955,000 (the “2005A Bonds”) for the purpose of providing additional funding for the Program;

WHEREAS, in order to secure repayment of the 2005A Bonds, the Energy Commission and the Issuer will enter into a certain 2005A Secured Loan Agreement, dated as May 1, 2005 (the “2005A Secured Loan Agreement”);

WHEREAS, simultaneously with the execution of this Amended and Restated 2003A Secured Loan Agreement, the Issuer and the Trustee will execute an Amended and Restated 2003A Bond Indenture, dated April 27, 2005 (the “Amended and Restated 2003A Bond Indenture”), and the Issuer and the Trustee will enter into an Amended and Restated Master Trust Agreement, dated April 27, 2005 (the “Amended and Restated Master Trust Agreement”);

WHEREAS, the parties hereto wish to conform certain provisions of the 2003A Secured Loan Agreement to the 2005A Secured Loan Agreement, the Amended and Restated 2003A Bond Indenture and the Amended and Restated Master Trust Agreement, and they wish to accommodate the appointment of the Trustee as successor trustee thereunder; and

WHEREAS, pursuant to Section 7.2 of the 2003A Secured Loan Agreement, the Issuer and the Energy Commission are authorized to amend the 2003A Secured Loan Agreement without the consent of or notice to 2003A Owners, so long as any such amendment shall not materially adversely affect the interests of the 2003A Owners, to:

(a) cure any ambiguity or formal defect or omission in the 2003A Secured Loan Agreement or in any supplement thereto;

(b) grant to or confer upon the Trustee for the benefit of the 2003A Owners any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the 2003A Owners or the Trustee; or

(c) add conditions, limitations and restrictions on the Energy Commission to be observed thereafter;

WHEREAS, based solely upon the advice of Bond Counsel, the Issuer has determined that this Amended and Restated 2003A Secured Loan Agreement will not materially affect the interests of the 2003A Owners;

WHEREAS, the Issuer finds that conforming amendments to the 2005A Secured Loan Agreement, the Amended and Restated 2003A Bond Indenture and the Amended and Restated Master Trust Agreement will enhance the security for the 2003A Bonds; and

WHEREAS, all things necessary to constitute this Amended and Restated 2003A Secured Loan Agreement a valid and binding pledge and assignment of the property, rights, interests and revenues made herein for the security of the payment of the 2003A Bonds, have been done and performed, and the execution and delivery of this Amended and Restated 2003A Secured Loan Agreement have in all respects been duly authorized;

NOW THEREFORE, the parties hereto agree as follows:

## **ARTICLE I DEFINITIONS**

**Section 1.1 Definitions.** Unless a different meaning clearly appears from the context, all capitalized terms shall have the meanings set forth in Appendix A.

### **Section 1.2 Rules of Interpretation.**

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

(c) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles.

(d) All references herein to “generally accepted accounting principles” refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.

(e) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as executed.

(f) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Secured Loan Agreement as a whole and not to any particular Article, Section or other subdivision.

(g) The Article and section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

(h) Whenever an item or items are listed after the word “including” or “include,” such listing is not intended to be a listing that excludes items not listed.

(i) All approvals, notices, consents and other actions of the Energy Commission under this Secured Loan Agreement (other than the execution of this Secured Loan Agreement and any amendments hereto) shall be executed by an Energy Commission Representative or designee, such designation to be made by a written instrument delivered to the Issuer and the Trustee.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

**Section 2.1 Representations by the Issuer.** The Issuer represents and covenants as follows:

(a) the Issuer is an entity within the Business, Transportation and Housing Agency of the State of California with the lawful power and authority to enter into this Secured Loan Agreement, the Amended and Restated 2003A Bond Indenture and the Amended and Restated Master Trust Agreement (collectively the “Issuer Documents”) acting by and through its duly authorized officers;

(b) one or more resolutions authorizing the execution, delivery and performance of the Issuer Documents and the 2003A Bonds have been duly adopted by the Issuer and have not been modified, amended or repealed;

(c) the Issuer Documents have been duly authorized, executed and delivered by the Issuer and constitute the valid and binding obligation of the Issuer enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors’ rights, and subject to the exercise of judicial discretion in accordance with general principles of equity;

(d) the execution, delivery and performance of the Issuer Documents by the Issuer will not constitute a default under any indenture, mortgage, deed of trust, lease or agreement or other instrument executed by the Issuer or by which it or any of its property is bound, or any applicable law, rule, regulation or judicial proceeding; and

(e) to the best knowledge of the Issuer, there are no consents, permits, licenses or approvals of any governmental authority or regulatory body (other than those previously obtained) required for the execution, delivery or performance by it of the Issuer Documents, or the issuance of the 2003A Bonds, other than with respect to any securities laws or Blue Sky requirements of any jurisdiction with respect to the sale of the 2003A Bonds.

**Section 2.2 Representations and Warranties by Energy Commission.** The Energy Commission represents and covenants as follows:

(a) the Energy Commission is a State commission duly organized and existing under the laws of the State with lawful power and authority to enter into this Secured Loan Agreement, to pledge the 2003A Collateral to secure payment of the Secured Loan made hereunder, and to apply the proceeds of the 2003A Bonds to make Program Loans to eligible public entities;

(b) one or more resolutions approving the issuance of the 2003A Bonds and authorizing the execution, delivery and performance of the 2003A Energy Commission Documents have been duly adopted by the Energy Commission and have not been modified, amended or repealed;

(c) the Energy Commission Documents have been duly authorized, executed and delivered by the Energy Commission, and assuming due authorization, execution and delivery of such documents by the other parties hereto or thereto, are valid and binding obligations of the parties thereto, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights, and to the exercise of judicial discretion in accordance with general principles of equity;

(d) the 2003A Program Loan Agreements have been duly authorized, executed and delivered by the Energy Commission, and assuming due authorization, execution and delivery of such documents by the Borrowers thereto, are valid and binding obligations of the parties thereto, in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights, and to the exercise of judicial discretion in accordance with general principles of equity; the 2003A Program Loan Agreements have not been amended in any manner whatsoever except as has been disclosed in writing to the Issuer and except as necessary to establish a final amortization schedule after the principal amount of a 2003A Program Loan has been fully disbursed, provided that such modified amortization schedule would not adversely affect the Commission's ability to deliver a Cash Flow Certificate assuming that one were required on the date of such amendment; the Energy Commission is the sole owner of its rights and obligations under the 2003A Program Loans Agreements; and the Energy Commission has not assigned, pledged or encumbered, or created any lien upon its rights under the 2003A Program Loan Agreements, except as created hereunder;

(e) the Energy Commission's execution, delivery and performance of this Agreement, or its approval of the Amended and Restated Master Trust Agreement or the Amended and Restated 2003A Bond Indenture, will not (i) violate any material provision of any applicable law or regulation or any order, writ, judgment or decree of any court, arbiter or governmental authority, nor (ii) result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or agreement or other instrument to which the Energy Commission is a party or by which it or any of its property is bound or any applicable law, rule or regulation;

(f) to the best knowledge of the Energy Commission, there are no consents, permits, licenses or approvals of any governmental authority or regulatory body (other than those



previously obtained) required for the execution, delivery or performance by it of this Secured Loan Agreement, or its approval of the Amended and Restated Master Trust Agreement and the Amended and Restated 2003A Bond Indenture, or the issuance of the 2003A Bonds, other than with respect to any securities laws or Blue Sky requirements of any jurisdiction with respect to the sale of the 2003A Bonds; and

(g) the Energy Commission consents to the terms of the 2003A Bonds and the 2003A Bond Indenture, which consent is conclusively established by its execution and delivery of this Secured Loan Agreement.

### **ARTICLE III ISSUANCE OF 2003A BONDS; REPAYMENTS**

#### **Section 3.1 Making of the Secured Loan; Issuance of the 2003A Bonds; Deposit into Debt Service Reserve Account.**

(a) Simultaneously with the delivery of this Agreement, the Issuer shall issue and deliver the 2003A Bonds to provide it with funds to be loaned to the Energy Commission pursuant to this Agreement. The 2003A Bonds shall be issued in accordance with the 2003A Bond Indenture, and the proceeds thereof shall be applied as provided in the 2003A Bond Indenture. Also, simultaneously with the delivery of this Agreement, the Energy Commission will deposit into the 2003A Reserve Account an amount equal to the initial 2003A Reserve Requirement in immediately available funds.

(b) Upon the terms and conditions of this Secured Loan Agreement, the Issuer hereby makes a loan to the Energy Commission in the principal amount of \$28,005,000 (the "Secured Loan"), the same being the initial principal amount of the 2003A Bonds. The Secured Loan shall be deemed to have been made when the proceeds of the sale of the 2003A Bonds are delivered to the Trustee. The proceeds of the Secured Loan, together with other available funds, shall be used to (i) fund additional Program Loans authorized under the Energy Conservation Act, and (ii) pay the Costs of Issuance in connection with the issuance of the 2003A Bonds. For the purposes of this Agreement, the amount of any underwriters' discount on the 2003A Bonds shall be deemed to have been loaned to the Energy Commission hereunder.

(c) The Energy Commission hereby accepts the Secured Loan and agrees to repay the Secured Loan in accordance with the provisions of this Agreement.

**Section 3.2 Limited Liability of Energy Commission.** Notwithstanding any other provision or obligation to the contrary contained in this Agreement or any other related document, the liability of the Energy Commission under this Agreement to make Secured Loan Repayments and Additional Payments to any person, including but not limited to the Trustee or the Issuer and their successors and assigns, is limited to the 2003A Collateral. The Energy Commission shall not be liable to make payments under this Agreement from any other account or fund not comprising the 2003A Collateral. The obligations arising under this Agreement shall not be deemed to constitute a debt or liability of the State or of any political subdivision thereof, other than the limited obligation of the Energy Commission to the extent provided hereunder, or a pledge of the faith and credit of the State or of any political subdivision thereof.

**Section 3.3 Obligation to Make Secured Loan Repayments and Additional Payments.** The Energy Commission shall make all Secured Loan Repayments and Additional Payments, but only from the 2003A Collateral, when due. In the event of any delay in the timely and full payment of any Secured Loan Repayment or in any Additional Payment, due to the insufficiency of 2003A Program Loan Repayments, the remaining 2003A Collateral shall be applied pursuant to the 2003A Bond Indenture to make up for such deficiency. The Energy Commission will pay without abatement, diminution or deduction (whether for taxes or otherwise) all such amounts regardless of any cause or circumstance whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim that the Energy Commission may have or assert against the Issuer, the Trustee or any other person.

**Section 3.4 Secured Loan Repayments.**

(a) The Energy Commission agrees to make Secured Loan Repayments at the times and in the amounts sufficient in the aggregate to pay in full all 2003A Bonds issued under the 2003A Bond Indenture, together with all interest thereon. Exhibit B represents the 2003A Cash Flow Certificate to be delivered by the Energy Commission on the Date of Delivery of the 2003A Bonds. The schedule(s) attached to such 2003A Cash Flow Certificate shall in no way diminish the obligations of the Energy Commission hereunder.

(b) The Secured Loan Repayments shall be due and payable, but only from the 2003A Collateral, in accordance with this Section 3.4 and Section 3.7(d) hereof. With respect to each date on which the principal of and the interest on the 2003A Bonds is payable, the Energy Commission agrees to pay:

(i) all interest which will become due and payable on the 2003A Bonds on such date; and

(ii) the principal amount of the 2003A Bonds, if any, which will become due and payable on such date.

(c) The Energy Commission shall not have any right to prepay the Secured Loan.

**Section 3.5 Additional Payments under this Agreement.** In addition to Secured Loan Repayments, the Energy Commission agrees to pay, as Additional Payments, but solely from the 2003A Collateral, all Trustee Priority Administrative Expenses, Issuer Priority Administrative Expenses, and Subordinate Administrative Expenses (as defined in Appendix A hereto). Such Additional Payments shall be made in the priority established under the 2003A Bond Indenture.

**Section 3.6 Energy Commission's Payments as Trust Funds.** All deposits or payments under this Agreement made by or on behalf of the Energy Commission to the Trustee shall be and constitute trust funds, whether held by the Energy Commission, the Trustee, the bond registrar or any bank or trust company designated for such purpose, and shall continue to be impressed with a trust until such money is applied in the manner provided in this Agreement, the 2003A Bond Indenture or the Master Trust Agreement.

### **Section 3.7 Pledge of 2003A Program Loans; Transfer of 2003A Program Loan Repayments.**

(a) As security for the repayment of the Secured Loan and the performance by the Energy Commission of its obligations hereunder, the Energy Commission, for security purposes and not as an absolute transfer, pledges and assigns to, and grants a security interest in, for the benefit of the Issuer and its successors and assigns, subject to Energy Commission Retained Rights (i) all right, title and interest in and to the 2003A Program Loans, including all 2003A Program Loan Repayments and all other proceeds arising from the 2003A Program Loans, (ii) all amounts held from time to time in the 2003A Loan Repayment Account, the 2003A Debt Service Account, the 2003A Reserve Account and the 2003A Surplus Repayments Account established under the 2003A Bond Indenture, and (iii) all amounts held under the Master Trust Agreement which are available for payment of the 2003A Bonds (collectively the “2003A Collateral”).

(b) The pledge effected by this Secured Loan Agreement will be valid and binding from the date of execution and delivery of this Secured Loan Agreement without the need for recordation or other filing; the moneys so pledged and hereafter received by the Energy Commission, the Issuer or the Trustee will be subject to the lien of such pledge and assignment; and such lien will be a continuing, irrevocable and exclusive first lien and will be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Energy Commission, the Trustee or the Issuer irrespective of whether such parties have notice thereof.

(c) The Energy Commission covenants and agrees that it will not take any action that will adversely affect the Issuer’s or the Trustee’s right or ability to receive 2003A Program Loan Repayments nor create any other pledge, assignment or lien upon the 2003A Collateral, nor will it amend any 2003A Program Loan Agreement in any way that materially diminishes any right or privilege of the Energy Commission, except as expressly permitted hereunder.

(d) In order to assure the prompt and timely payment of all amounts due hereunder, the Energy Commission agrees that, on and after the Date of Delivery, it will transfer to the Trustee for deposit into the 2003A Loan Repayment Account established pursuant to Section 402 of the 2003A Bond Indenture, promptly after receipt thereof, all 2003A Program Loan Repayments and any other amounts received with respect to the 2003A Program Loans, or it will cause the 2003A Program Loan Repayments to be transmitted directly to the Trustee by the Borrowers under the 2003A Program Loans.

(e) At least two Business Days prior to each Bond Payment Date, the Energy Commission shall deliver to the Trustee and the Issuer a statement showing, for each 2003A Program Loan, all payments received since the last such statement, or since the Date of Delivery (in the case of the first such statement), specifically itemizing (i) the amount of any regularly scheduled principal and interest paid with respect to such loan, (ii) the amount of any prepayment of such loan, (iii) the outstanding principal balance of such loan as of the date of such statement, and (iv) if applicable, whether such loan is delinquent and in what amount.

### **Section 3.8 Release, Substitution and Modification of 2003A Program Loans.**

(a) The Energy Commission may, upon the consent of the Trustee, obtain a release of any 2003A Program Loan from the lien of this Agreement or may in place of any 2003A Program Loan substitute another Program Loan meeting the requirements of this Section 3.8 by delivering to the Trustee, the Issuer and any Rating Agency the following: (i) a revised Exhibit A to this Agreement, (ii) a certificate stating that such Program Loan satisfies the requirements of this Section 3.8, and (iii) a 2003A Cash Flow Certificate, the form of which is attached hereto as Exhibit B.

(b) The Energy Commission may, upon the consent of the Trustee, modify the terms of any 2003A Program Loan if the Energy Commission provides to the Issuer, the Trustee and any Rating Agency a certification to the effect that (i) the Borrower under the 2003A Program Loan is not experiencing "energy savings" as required under the Energy Conservation Assistance Act in amounts sufficient to support the repayment of the 2003A Program Loan as scheduled, and (ii) the modifications to the 2003A Program Loan are necessary to assure continued payments under and the continued enforceability of the 2003A Program Loan.

(c) The Issuer and the Trustee will execute such consents to releases, substitutions or modifications and such other instruments as the Energy Commission may reasonably request in order to evidence the release of any 2003A Program Loan from the pledge and lien of this Agreement but only upon receipt of the items set forth in Section 3.8(a) or Section 3.8(b), as applicable, and Section 3.8(d). The Trustee may conclusively rely upon the representations set forth in the exhibits and certifications delivered under this Section 3.8. Written acknowledgement by the Trustee of any such release, addition or modification shall constitute its consent thereto.

(d) Any Program Loan substituted for any other Program Loan pursuant to the provisions of this Section 3.8 shall be a Program Loan which is fully disbursed by the Energy Commission under the Program Loan or, if partially disbursed, the Energy Commission shall have set aside in escrow an amount sufficient to complete the funding of the Program Loan, and the pledge thereof will not cause any of the representations of the Energy Commission made hereunder to be incorrect or cause the Energy Commission to be in breach of any other agreement hereunder.

(e) No release, substitution or modification of any 2003A Program Loan shall occur except as expressly provided in this Section 3.8 or Section 3.7(c) hereof.

**Section 3.9 Pledge and Assignment to Trustee.** Simultaneously with the delivery of this Agreement, the Issuer will pledge and assign to the Trustee, as security for the 2003A Bonds, all of the Issuer's right, title and interest in and to this Secured Loan Agreement (except for the Issuer Retained Rights), including all of its right, title and interest in and to Secured Loan Repayments (except for the Issuer Retained Rights) and the 2003A Program Loan Repayments. The Energy Commission hereby consents to such pledge and assignment and agrees that the Trustee may enforce any and all rights, privileges and remedies of the Issuer under or with respect to this Secured Loan Agreement and the 2003A Program Loans.

**ARTICLE IV  
FUNDS AND ACCOUNTS,  
APPLICATIONS OF BOND PROCEEDS**

**Section 4.1 Creation of Funds and Accounts.** Under the 2003 Bond Indenture, there have been created and ordered to be established, in the custody of the Trustee, the following special trust accounts which shall be administered by the Trustee except for the 2003A Bond Proceeds Account, which shall be administered by the Energy Commission pursuant to the terms hereof:

(a) *Loan Repayment Account*, designated “Loan Repayment Account, Series 2003A” (the “2003A Loan Repayment Account”);

(b) *Debt Service Account*, designated “Debt Service Account, Series 2003A” (the “2003A Debt Service Account”);

(c) *Reserve Account*, designated “Reserve Account, Series 2003A” (the “2003A Reserve Account”);

(d) *Surplus Repayments Account*, designated “Surplus Repayments Account, Series 2003A” (the “2003A Surplus Repayments Account”);

(e) *Cost of Issuance Account*, designated “Cost of Issuance Account, Series 2003A” (the “2003A Cost of Issuance Account”);

(f) *Rebate Account*, designated “Rebate Account, Series 2003A” (the “2003A Rebate Account”); and

(g) *Bond Proceeds Account*, designated “Bond Proceeds Account, Series 2003A” (the “2003A Bond Proceeds Account”).

Moneys in the foregoing accounts, except the 2003A Rebate Account and the 2003A Bond Proceeds Account, shall be held in trust for the benefit of the 2003A Owners.

**Section 4.2 2003A Loan Repayment Account.**

(a) The Energy Commission shall transfer to the Trustee (or cause the 2003A Program Loan Repayments to be transmitted directly to the Trustee) for deposit into the 2003A Loan Repayment Account the amounts required by Section 3.7(d) hereof. All interest earnings on investment held for the credit of the 2003A Loan Repayment Account will be included in the amount transferred to the 2003A Debt Service Account.

(b) Not later than the Bond Payment Transfer Date, the Trustee shall transfer to the 2003A Debt Service Account held under the 2003A Bond Indenture the amount required, after taking into account any interest earnings on the 2003A Debt Service Account which will be on deposit in the 2003A Debt Service Account as of such Bond Payment Transfer Date, to pay principal and interest on the 2003A Bonds due on such Bond Payment Date.

(c) If on the Bond Payment Transfer Date, there are insufficient moneys in the 2003A Loan Repayment Account to make the transfer required by clause (b) of this Section 4.2, the Trustee shall transfer, first, from the 2003A Surplus Repayments Account, and then from the 2003A Reserve Account, the amount of such deficiency.

(d) If on any Bond Payment Transfer Date, there are insufficient amounts to make the transfer required by clause (b) above, after making the transfer from the 2003A Surplus Repayments Account and the 2003A Reserve Account, the Trustee shall immediately notify the Energy Commission of the amount of any shortfall and, in accordance with Section 303 of the Master Trust Agreement, the Trustee shall transfer from the Master Reserve Account and deposit into the 2003A Debt Service Account any amounts available to pay any principal or interest on the 2003A Bonds on the Bond Payment Date.

(e) Immediately following the transfer described in clause (b) above, and following payment of all Priority Administrative Expenses then due (to the extent any Priority Administrative Expenses have not been paid from the Master Administrative Expense and Surplus Account under the Master Trust Agreement), on each Bond Payment Transfer Date, the Trustee shall transfer from the 2003A Loan Repayment Account to the 2003A Reserve Account any amount which is available and necessary to cause the amount in the 2003A Reserve Account to equal the 2003A Reserve Requirement.

(f) All amounts on deposit in the 2003A Loan Repayment Account, after making the transfers required by clauses (b) and (e) above, shall remain in the 2003A Loan Repayment Account, up to the amount required to be on deposit in the 2003A Debt Service Account on the next succeeding Bond Payment Date (so long as such Bond Payment Date is March 1 of the same Bond Year). All amounts in the 2003A Loan Repayment Account in excess of this amount shall be transferred on each Bond Payment Transfer Date into the 2003A Surplus Repayments Account.

(g) In determining the amounts to be transferred to or from any fund or account pursuant to this Section 4.2, the Trustee shall rely upon a certificate of an Energy Commission Representative, and the Energy Commission covenants to provide such certificates on a timely basis so as to permit the Trustee to comply with this Section 4.2.

**Section 4.3 2003A Debt Service Account.** Moneys deposited in the 2003A Debt Service Account shall be applied by the Trustee solely to pay interest on and principal of the 2003A Bonds as the same becomes due. Any excess amounts remaining after such payment on any Bond Payment Date shall be transferred to the 2003A Surplus Repayments Account on such Bond Payment Date.

**Section 4.4 2003A Reserve Account.**

(a) The Trustee will deposit into the 2003A Reserve Account, on each Bond Payment Transfer Date, the amounts required by Section 4.2(e) hereof. All interest earnings on investments held for the credit of the 2003A Reserve Account shall be transferred to the 2003A Loan Repayment Account on the Business Day preceding each Bond Payment Transfer Date.

(b) Funds on deposit in the 2003A Reserve Account will be used, as provided in Section 4.2(c) hereof, to pay debt service on the 2003A Bonds in the event moneys on deposit in the 2003A Debt Service Account and 2003A Surplus Repayments Account are insufficient to pay the principal and interest on the 2003A Bonds as the same become due.

(c) On the Business Day prior to each Bond Payment Date, and after making or providing for any transfers described in clause (b) above, the Trustee shall transfer from the 2003A Reserve Account to the Master Reserve Account any amount in excess of the 2003A Reserve Requirement, determined as of such Bond Payment Date.

(d) So long as the amount on deposit in the 2003A Reserve Account shall equal the 2003A Reserve Requirement, no further deposits to the 2003A Reserve Account shall be required. If the Trustee ever withdraws funds from the 2003A Reserve Account to prevent a default as herein provided, and the withdrawal of such funds reduces the amount on deposit in the 2003A Reserve Account to less than the 2003A Reserve Requirement, the Trustee shall hold, in the Master Reserve Account, an amount equal to this Reserve Deficiency, to the extent of available funds. If the 2003A Reserve Account is subsequently replenished from 2003A Program Loan Repayments, the Trustee shall release the amount so held in the Master Reserve Account in accordance with Section 303 of the Master Trust Agreement.

**Section 4.5 2003A Surplus Repayments Account.** Amounts on deposit in the 2003A Surplus Repayments Account shall be transferred to the 2003A Debt Service Account on any Bond Payment Transfer Date to the extent such amounts are required to pay principal and interest on the 2003A Bonds coming due on the applicable Bond Payment Date as provided in Section 4.2(c) of the 2003A Bond Indenture.

Subject to the foregoing, and after receipt of the 2003A Cash Flow Certificate described below, on the second Business Day preceding each Bond Payment Date, the Trustee shall transfer, from the 2003A Surplus Repayments Account for deposit into the Master Reserve Account, the amount in the 2003A Surplus Repayments Account in excess of the amount necessary to deliver the 2003A Cash Flow Certificate, the form of which is attached hereto as Exhibit B, and which certificate the Energy Commission covenants to deliver to the Trustee and the Issuer at least 2 Business Days Prior to each Bond Payment Date.

**Section 4.6 2003A Cost of Issuance Account.** Amounts on deposit in the 2003A Cost of Issuance Account shall be paid out from time to time by the Issuer, as instructed by the Trustee and approved by the Energy Commission, to pay Costs of Issuance of the 2003A Bonds. At such time as the Trustee is advised in writing by an Issuer Representative that all Costs of Issuance of the 2003A Bonds have been paid, and in any case not later than six months after the Date of Delivery, the Trustee shall notify the Energy Commission of the balance in the 2003A Cost of Issuance Account and shall transfer any moneys remaining in the 2003A Cost of Issuance Account to the Energy Commission for deposit into the 2003A Bond Proceeds Account, and the Cost of Issuance Account shall be closed.

**Section 4.7 2003A Rebate Account.** Pursuant to the Tax Agreement, the Energy Commission has covenanted to calculate and to pay directly to the government of the United States of America all amounts due for payment of "arbitrage rebate" under Section 148(f) of the

Internal Revenue Code with respect to the 2003A Bonds. Accordingly, no amounts shall initially be deposited in the 2003A Rebate Account, provided, however, that the Energy Commission may in the future request the Trustee to deposit in the 2003A Rebate Account amounts held in any fund or account under the 2003A Bond Indenture, (which direction shall specify the procedures for collection and payment of amounts due in respect of arbitrage rebate). The 2003A Rebate Account is a trust fund, but amounts therein are not pledged to the payment of the 2003A Bonds. Amounts on deposit in the 2003A Rebate Account may be used solely to make payments to the United States of America under Section 148 of the Internal Revenue Code. Any amounts remaining in the 2003A Rebate Account upon satisfaction of all rebate obligations payable to the United States shall be transferred to the 2003A Loan Repayment Account.

**Section 4.8 2003A Bond Proceeds Account.** There shall be deposited into the 2003A Bond Proceeds Account the net proceeds of the 2003A Bonds, after deposit of the amounts, if any, required hereunder into the 2003A Debt Service Account and the 2003A Cost of Issuance Account. Moneys on deposit in the 2003A Bond Proceeds Account shall be disbursed by the Energy Commission to fund Program Loans to public entities and for other purposes authorized by the Energy Conservation Assistance Act, so long as any such disbursement does not cause interest on the 2003A Bonds to be included in gross income for federal income tax purposes. The 2003A Bond Proceeds Account is a trust fund dedicated to making additional Program Loans and other purposes authorized by the Energy Conservation Assistance Act, but amounts therein are not pledged to the payment of the 2003A Bonds.

**Section 4.9 Investments.** Moneys held by the 2003A Bond Trustee in each of the accounts held under the 2003A Bond Indenture shall be invested pursuant to Section 411 of the 2003A Bond Indenture.

## **ARTICLE V FURTHER AGREEMENTS**

**Section 5.1 Covenant to Maintain Tax Status.** The Energy Commission covenants and agrees that it will not take any action or permit any action to be taken that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the 2003A Bonds and will take whatever action (including, but not limited to the enforcement of any applicable provisions in any loan agreement funded with 2003A Bond proceeds), or refrain from whatever action, necessary to comply with the requirements of the Internal Revenue Code to maintain the exclusion from gross income, for federal income tax purposes, of the interest on the 2003A Bonds, including all provisions of Section 505 of the 2003A Bond Indenture. The Energy Commission will not permit the use of any portion of the proceeds of the 2003A Bonds to be used in a manner that would cause any 2003A Bond to become a "private activity bond" as defined in the Internal Revenue Code, nor will the Energy Commission enter into any arrangement or take such other action that would cause the 2003A Bonds to be "federally guaranteed" within the meaning of Section 141(a) of the Internal Revenue Code. The Energy Commission covenants and agrees that it will not take any action, fail to take any action, or permit any action to be taken, including without limitation any action with respect to the investment of the proceeds of any 2003A Bonds or any other moneys or securities deposited with the Trustee pursuant to the Amended and Restated 2003A Bond Indenture or hereunder or with respect to the payments derived under the Amended and Restated 2003A Bond Indenture or with



respect to the purchase of other Issuer obligations, that would cause the 2003A Bonds to become “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code.

**Section 5.2 Issuer’s Performance of the Energy Commission’s Obligations.** In the event the Energy Commission at any time neglects, refuses, is unable to, or fails to perform any of its obligations under this Agreement, the Issuer or the Trustee, at their respective options and following at least thirty (30) days’ written notice to the Energy Commission (except where a shorter period of notice is necessary to avoid a default on the 2003A Bonds), may perform or cause to be performed such obligations, and all expenditures incurred by the Issuer or the Trustee thereby shall be promptly paid or reimbursed by the Energy Commission to the Issuer or the Trustee, as the case may be, but such amounts shall be limited to the 2003A Collateral.

**Section 5.3 Further Assurances and Instruments.** The Energy Commission and the Issuer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Agreement. Pursuant to Section 1004 of the 2003A Bond Indenture, the Issuer has agreed to execute, acknowledge and deliver such documents as may be necessary to protect the interests of Owners of the 2003A Bonds.

Without limiting the generality of the foregoing, the Energy Commission, at the Energy Commission’s expense, shall promptly procure, execute and deliver to the Issuer all documents, instruments and agreements and perform all acts which are necessary, in the judgment of the Issuer or the Trustee, to establish, maintain, continue, preserve, protect and perfect the grant of security interest in, and pledge of, the 2003A Program Loans and other 2003A Collateral, or for the Trustee to exercise and enforce its rights and remedies hereunder or under the 2003A Bond Indenture. Without limiting the generality of the preceding sentence, the Energy Commission shall (i) procure, execute and deliver to the Trustee all endorsements, assignments, financing statements and other instruments of transfer requested by the Trustee, and (ii) take or cause to be taken such actions as may be necessary to perfect the lien of the Issuer in the 2003A Program Loans.

The Issuer, in the case of (a), and the Trustee, in the case of (b), shall give notice to each Rating Agency if (a) the Trustee under the 2003A Bond Indenture or under the Master Trust Agreement resigns or is removed, or if a new Trustee is appointed, or (b) if any amendment is made to the 2003A Bond Indenture or the Master Trust Agreement.

**Section 5.4 Enforcement of 2003A Program Loan Agreements; Further Acts.** The Energy Commission shall enforce the provisions of the 2003A Program Loans against the Borrowers. The Energy Commission shall not take any action that shall adversely affect the Issuer’s or the Trustee’s ability to receive payments made under, or other proceeds of, the 2003A Program Loans. The Energy Commission hereby represents, and shall so certify as of the Date of Delivery of the 2003A Bonds, that 2003A Program Loan Repayments have in the past been paid, and are projected in the future, to be paid solely from energy savings as determined by the Energy Commission in accordance with the Energy Conservation Assistance Act or from other legally available sources. All expenses of the Energy Commission incurred to enforce the 2003A Program Loans shall be paid by the Energy Commission and, to the extent of available

revenues from the 2003A Collateral, shall be reimbursed to the Energy Commission as Subordinate Administrative Expenses.

**Section 5.5 Books and Records; Audits.** The Energy Commission shall maintain, until the end of the sixth year after any 2003A Bond is Outstanding, separate and apart from all other records and accounts, proper books, records and accounts in which complete and correct entries will be made of all dealings and transactions in relation to 2003A Program Loans and all funds and accounts established hereunder or under the 2003A Bond Indenture. Such accounts shall show the amount of 2003A Program Loan Repayments or other amounts received with respect to each 2003A Program Loan and the date of each remittance of such amounts to the Trustee. These books shall be kept by the Energy Commission according to generally accepted accounting principles and standard accounting practices as applicable.

The Energy Commission's books, records and accounts for the 2003A Program Loans and all funds and accounts established hereunder or under the 2003A Bond Indenture shall be audited in accordance with auditing standards and accounting principles generally accepted in the United States, as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board at least annually by independent certified public accountants selected by the Energy Commission. A copy of each audit report, including statements of net assets, activities and cash flow, and notes to financial statements, shall be filed with the Issuer and the Trustee as soon as they become available, but in no event later than 9 months after the close of the Energy Commission's fiscal year and sent to any 2003A Owner filing with the Energy Commission a written request therefor.

The Energy Commission shall at any and all reasonable times, upon the written request of the Issuer, the Trustee or the Original Purchaser, permit the Issuer, the Trustee or the Original Purchaser by their representatives to inspect the books of account, records, reports and other papers of the Energy Commission relating to the 2003A Bonds and this Secured Loan Agreement, except personnel records and any other confidential records, and to take copies and extracts therefrom, and will afford and procure a reasonable opportunity to make any such inspection. The Energy Commission shall furnish to the Issuer, the Trustee and the Original Purchaser (in the case of the Original Purchaser, at the Original Purchaser's expense) any and all information as the Issuer, the Trustee or the Original Purchaser may reasonably request, in order to enable the requesting party to make any reports required by law, governmental regulations or this Secured Loan Agreement in connection with any Series of Bonds and to determine whether the covenants, terms and provisions of this Secured Loan Agreement have been complied with by the Energy Commission.

**Section 5.6 Continuing Disclosure.** Under the Continuing Disclosure Agreement between the Energy Commission and the Trustee, as Dissemination Agent, or other dissemination agent acceptable to the Issuer and the Energy Commission, the Energy Commission has undertaken responsibility for compliance with continuing disclosure requirements with respect to Securities and Exchange Commission Rule 15c2-12. Information pertaining to the Issuer, as conduit issuer of the 2003A Bonds, is not subject to continuing disclosure obligations. The Energy Commission hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement.

Furthermore, the Energy Commission covenants and agrees that, if at the time of any release, substitution or replacement of a 2003A Program Loan pursuant to Section 3.8 hereof, (1) any 2003A Borrower shall be obligated to make aggregate debt service payments on its 2003A Program Loans in an amount equal to 10% or more of the aggregate annual debt service on the 2003A Bonds, or (2) if any 2003A Borrower's aggregate 2003A Program Loans represent more than 10% of the aggregate principal amount of all 2003A Program Loans pledged as Collateral to any Series of Bonds, then such a 2003A Borrower will be a "Material Participant" for purposes of this Secured Loan Agreement and an "Obligated Person" within the meaning of Securities and Exchange Commission Rule 15c2-12, and as such will be required to execute and file with the Energy Commission a continuing disclosure agreement, with the Trustee as dissemination agent, or other dissemination agent acceptable to the Issuer and the Energy Commission, under which such Material Participant will be required to file annual reports containing required financial and operating information and notices of certain events on an ongoing basis in accordance with Securities and Exchange Commission Rule 15c2-12, so long as such 2003A Borrower remains a Material Participant.

**Section 5.7 Provision of Cash Flow Certificate.** The Energy Commission covenants to provide a 2003A Cash Flow Certificate to the Trustee and the Issuer at least 2 Business Days prior to each Bond Payment Date and at other times as required by this Secured Loan Agreement, including but not limited to Section 3.8 hereof.

## **ARTICLE VI EVENTS OF DEFAULT AND REMEDIES**

**Section 6.1 Events of Default.** The following shall be "Events of Default" under this Agreement, and the term "Events of Default" shall mean, whenever used with reference to this Agreement, any one or more of the following occurrences:

(a) Default in the full and timely payment of any Secured Loan Repayment as set forth in Section 3.4 of this Agreement or any Additional Payment as set forth in Section 3.5 of this Agreement; provided, however, that if the 2003A Collateral is insufficient to make any such payment, then failure by the Energy Commission to make such Secured Loan Repayment or Additional Payment shall not constitute an "Event of Default" under this Agreement unless caused by another Event of Default hereunder;

(b) Default in the performance, observation or compliance with any of the other covenants, agreements, conditions or provisions in this Agreement, all of which are payable solely from the 2003A Collateral, and the continuance thereof for a period of 30 days after receipt by the Energy Commission of a written notice from the Issuer or the Trustee specifying such default and requesting that it be corrected; provided, however, if prior to the expiration of such 30-day period the Energy Commission institutes action reasonably designed to cure such default, no Event of Default shall be deemed to have occurred upon the expiration of such 30-day period for so long as the Energy Commission pursues such curative action with reasonable diligence and provided that such curative action can be completed within a reasonable time; and

(c) Bankruptcy, arrangement or insolvency proceedings, or other proceedings for relief under any bankruptcy or similar law or laws for the relief of debtors, are instituted voluntarily by the Energy Commission or involuntarily against the Energy Commission and, if instituted against the Energy Commission, are not dismissed within 60 days after such institution.

**Section 6.2 Notice to and by the Energy Commission.** Upon the occurrence of an Event of Default, the Trustee shall give prompt written notice to the Energy Commission specifying the nature of the Event of Default. The Energy Commission shall give the Issuer and the Trustee notice of all events of which it is aware that either constitute Events of Default under this Agreement or, upon notice by the Issuer or the Trustee or the passage of time or both, would constitute Events of Default hereunder.

### **Section 6.3 Remedies.**

(a) Whenever any Event of Default hereunder shall have happened and be continuing, the Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, but solely from the 2003A Collateral, or to enforce observance or performance of any covenant, condition or agreement of the Energy Commission under this Secured Loan Agreement.

(b) Any amounts collected pursuant to action taken under this Section 6.3 shall be applied as described in Section 605 of the 2003A Bond Indenture.

**Section 6.4 Remedies Not Exclusive.** No remedy conferred upon or reserved to the Trustee in connection with the Secured Loan to the Energy Commission pursuant to this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy either given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as it may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**Section 6.5 Attorneys' Fees and Expenses.** If an Event of Default shall occur and the Trustee or the Issuer shall employ attorneys or incur other necessary expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement on the part of the Energy Commission contained herein, the Energy Commission will on demand therefor reimburse the reasonable fees of such attorneys and such other expenses so incurred as Trustee Priority Administrative Expenses with regard to the Trustee and as Issuer Priority Administrative Expenses with regard to the Issuer. All such amounts reimbursed or paid by the Energy Commission shall be payable solely from the 2003A Collateral.

**Section 6.6 Waivers.** In the event that any agreement contained herein shall be breached by either party and such breach shall thereafter be waived by the other party, such

waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. In view of the assignment of the Issuer's rights under and interest in this Agreement to the Trustee by the provisions of the 2003A Bond Indenture, the Issuer shall have no power to waive any material default hereunder by the Energy Commission without the consent of the Trustee to such waiver.

## **ARTICLE VII MISCELLANEOUS**

**Section 7.1 Termination.** This Agreement shall terminate upon (i) full payment of the 2003A Bonds and (ii) payment or satisfaction of all other obligations incurred by the Issuer or the Energy Commission under this Agreement with respect to the 2003A Bonds, including (without limitation) interest and other charges, if any, thereon. Upon such termination, any amounts remaining in the funds and accounts held by the Trustee not needed for payment of the aforesaid items shall belong to and be paid to the Energy Commission by the Trustee in accordance with the provisions of the 2003A Bond Indenture.

**Section 7.2 Amendment of Agreement.** This Agreement may, without the consent of or notice to any of the Owners of the 2003A Bonds, be amended in writing by both parties hereto, so long as any such amendment shall not, in the opinion of Bond Counsel, materially adversely affect the interests of the Owners of the 2003A Bonds or impair the exclusion from gross income, for federal income tax purposes, of the interest on the 2003A Bonds and exemption from State personal income taxation, for purposes which may include, but are not limited to:

- (a) curing any ambiguity or formal defect or omission in this Agreement or in any supplement thereto;
- (b) granting to or confer upon the Trustee for the benefit of the 2003A Owners any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the 2003A Owners or the Trustee; and
- (c) adding conditions, limitations and restrictions on the Energy Commission to be observed thereafter.

Other than amendments referred to in the preceding paragraph of this Section and subject to the terms and provisions and limitations contained in Section 805 of the 2003A Bond Indenture and not otherwise, the Owners of not less than 51% in aggregate principal amount of the 2003A Bonds then Outstanding shall have the right, from time to time, anything contained herein to the contrary notwithstanding, to consent to and approve the execution by the Energy Commission and the Issuer of such supplements and amendments hereto as shall be deemed necessary and desirable by the Trustee and the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained herein; provided, however, nothing in this Section shall permit or be construed as permitting a supplement or amendment which would:

- (i) extend the stated maturity of or time for paying principal of or interest on the Secured Loan or reduce the principal amount of or rate of interest payable on the Secured

Loan without the consent of the Owners of all 2003A Bonds then Outstanding or remove the security interest in the 2003A Collateral granted pursuant to Section 3.7; or

(ii) reduce the aggregate principal amount of 2003A Bonds then Outstanding the consent of the Owners of which is required to authorize such supplement or amendment without the consent of the Owners of all 2003A Bonds then Outstanding.

**Section 7.3 Authorized Issuer Representative.** Whenever under the provisions of this Agreement the approval of the Issuer is required or the Issuer is required to take some action at the request of the Energy Commission, such approval shall be given or such action shall be taken by an Issuer Representative; and the Energy Commission and the Trustee shall be authorized to act on any such approval or action.

**Section 7.4 Authorized Energy Commission Representative.** Whenever under the provisions of this Agreement the approval of the Energy Commission is required or the Energy Commission is required to take some action at the request of the Issuer, such approval shall be given or such action shall be taken by an Authorized Energy Commission Representative; and the Issuer and the Trustee shall be authorized to act on any such approval or action.

**Section 7.5 Notices.** All notices, certificates, requests or other communications between the Issuer, the Trustee, the Energy Commission and the Rating Agency required to be given hereunder or under the 2003A Bond Indenture shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, or sent by overnight delivery service addressed as follows:

If to the Issuer:	California Infrastructure and Economic Development Bank 1001 I Street, 19th Floor Sacramento, California 95814 Attention: Bond Manager
If to the Energy Commission:	California Energy Commission 1516 Ninth Street, MS 39 Sacramento, California 95814 Attention: Executive Director

If to the Trustee:

J.P. Morgan Trust Company, National  
Association  
560 Mission Street, 13<sup>th</sup> Floor  
San Francisco, California 94105  
Attention: Corporate Trust Administration

If to the Rating Agency:

Moody's Investors Service  
99 Church Street  
New York, New York 10007  
Attention: Rating Surveillance

Any of such addresses may be changed at any time upon written notice of such change sent by United States registered mail, postage prepaid, to the other parties by the party effecting the change.

If, because of the temporary or permanent suspension of mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such delivery of notice in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient notice.

**Section 7.6 Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Issuer and the Energy Commission, and their respective successors and assigns. The Trustee shall be an express third-party beneficiary of this Agreement.

**Section 7.7 If Payment or Performance Date a Legal Holiday.** If the date for making payment, or the last date for performance of any act or the exercising of any right, as provided in this Agreement, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Agreement

**Section 7.8 Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 7.9 Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 7.10 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State, and any action filed hereunder shall be filed in Sacramento, California, unless waived by the Issuer.

**Section 7.11 Officers of Issuer and Energy Commission Not Liable.** All covenants, stipulations, promises, agreements and obligations of the Issuer contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Issuer and not of any member of its governing board or any officer, agent, servant or employee of the Issuer in his individual capacity, and no recourse shall be had for the payment of the principal or interest on the 2003A Bonds or for any claim based thereon or hereunder against any member of the

governing board or any officer, agent or employee of the Issuer or any natural person executing the 2003A Bonds. No member of the Issuer's board of directors or any person executing the 2003A Bonds shall be liable personally on the 2003A Bonds or be subject to any personal liability or accountability by reason of the 2003A Bonds.

All covenants, stipulations, promises, agreements and obligations of the Energy Commission contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Energy Commission and not of any commissioner, director, officer, agent or employee of the Energy Commission in his individual capacity, and no recourse shall be had for the payment of the Secured Loan or the principal of or interest on the 2003A Bonds or for any claim based thereon or hereunder against any commissioner, director, officer, agent or employee of the Energy Commission. No commissioner, director, officer, agent, or employee of the Energy Commission shall be subject to any personal liability or accountability by reason of the execution of this Secured Loan Agreement or the issuance of the 2003A Bonds.

**Section 7.12 Issuer Not Liable for Certain Actions or Inactions.** Notwithstanding any other provision of this Agreement (a) the Issuer shall not be liable to the Energy Commission, the Trustee, the 2003A Owners or any other Person for any failure of the Issuer to take action under this Agreement unless the Issuer (i) is requested in writing by an appropriate person to take such action and (ii) is assured of payment of or reimbursement for any expenses in such action, and (b) except with respect to any action for specific performance or any action in the nature of a prohibitory or mandatory injunction, neither the Issuer nor any director of the Issuer or any other official or employee of the Issuer shall be liable to the Energy Commission, the Trustee, the 2003A Owners or any other person for any action taken by it or by its directors, officers, agents or employees, or for any failure to take action under this Agreement or the 2003A Bond Indenture. In acting under this Agreement, or in refraining from acting under this Agreement, the Issuer may conclusively rely on the advice of its legal counsel, including Bond Counsel.



IN WITNESS WHEREOF, the Issuer and the Energy Commission have caused this Amended and Restated 2003A Secured Loan Agreement to be executed in their respective names all as of the date first above written.

CALIFORNIA INFRASTRUCTURE AND  
ECONOMIC DEVELOPMENT BANK

By: Stanton C. Hazelroth  
Stanton C. Hazelroth, Executive Director

Attest:

By: Blake Fowler  
Blake Fowler, Secretary

CALIFORNIA ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT  
COMMISSION

By: \_\_\_\_\_  
Acting Executive Director

Attest:

By: \_\_\_\_\_  
Secretariat

IN WITNESS WHEREOF, the Issuer and the Energy Commission have caused this Amended and Restated 2003A Secured Loan Agreement to be executed in their respective names all as of the date first above written.

CALIFORNIA INFRASTRUCTURE AND  
ECONOMIC DEVELOPMENT BANK

By: \_\_\_\_\_  
Stanton C. Hazelroth, Executive Director

Attest:

By: \_\_\_\_\_  
Blake Fowler, Secretary

CALIFORNIA ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT  
COMMISSION

By:  \_\_\_\_\_  
Acting Executive Director

Attest:

By:  \_\_\_\_\_  
Secretariat

## EXHIBIT A

### INFORMATION ON INITIAL 2003A PROGRAM LOANS

The following table shows the outstanding principal amount of existing 2003A Program Loans as of January 28, 2003\*, as initially designated by the Energy Commission.

The Energy Commission may release, substitute or modify any of the 2003A Program Loans in accordance with Section 3.8.

#### Listing of Initial 2003A Program Loans

Initial 2003A Borrower	Loan Number	Outstanding Principal Amount	Interest Rate	Final Maturity Date <sup>(1)</sup>
West Hills Community College District	555-000 . . .	\$ 46,660	8.32%	06/22/08
Carmel Unified School District	140-002-ECA	261,427	6.60	12/22/07
Fall River Joint Unified School District	746-000-ECA	139,535	6.60	06/22/08
Siskiyou Joint Community College District	742-000-ECA	44,313	6.60	12/22/07
Woodlake Union High School	747-000-ECA	41,308	6.60	12/22/05
Gridley Union High School District	274-001-ECA	39,019	6.60	12/22/05
Conejo Valley Unified School District	336-004-ECA	35,752	6.60	12/22/03
Gridley Union School District	261-001-ECA	21,623	6.60	06/22/04
Lowell Joint School District	576-003-ECA	20,894	6.60	06/22/07
Conejo Valley Unified School District	336-005-ECA	8,021	6.60	12/22/04
Conejo Valley Unified School District	336-007-ECA	5,000	6.60	12/22/03
Conejo Valley Unified School District	336-006-ECA	4,809	6.60	12/22/03
Clear Creek Elementary School District	745-000-ECA	4,448	6.60	06/22/05
Penryn Elementary School District	749-000-ECA	4,356	6.60	12/22/04
Happy Valley Elementary School District	733-000-ECA	1,719	6.60	12/22/03
County of Alameda	810-000-ECA	745,277	6.00	12/22/10
City of Palm Springs	808-000-ECA	183,658	6.00	06/22/13
City of Pasadena	058-003-ECA	61,305	6.00	12/22/04
City of Sebastopol	811-000-ECA	8,750	6.00	06/22/05
University of California, Santa Barbara	777-000-ECA	391,122	5.90	06/22/11
County of El Dorado	753-000-ECA	224,032	5.90	06/22/09
City of South Gate	379-002-ECA	172,358	5.90	12/22/08
San Juan Water District	780-000-ECA	44,505	5.90	06/22/12
City of Rio Vista	754-000-ECA	34,167	5.90	06/22/09
City of Woodland	661-001-ECA	31,588	5.90	12/22/03
City of Redding	809-000-ECA	334,525	5.40	06/22/12
City of Berkeley	037-004-ECA	178,160	5.40	06/22/08

<sup>(1)</sup> Semiannual loan repayment dates are June 22 and December 22 of each year.

\* The 2003A Program Loan information in this Appendix is based on various files maintained by the Energy Commission which are updated periodically. Therefore, additional draws, prepayments or delinquencies may have occurred which are not reflected in this Appendix.

<b>Initial 2003A Borrower</b>	<b>Loan Number</b>	<b>Outstanding Principal Amount</b>	<b>Interest Rate</b>	<b>Final Maturity Date<sup>(1)</sup></b>
City of Redding	809-001-ECA	\$ 141,424	5.40%	6/22/13
City of South Gate	379-003-ECA	96,969	5.40	12/22/10
Exeter Public Schools	282-002-ECA	72,939	4.72	06/22/07
Lake Elementary School District	707-000-ECA	7,913	4.72	12/22/04
Plaza Elementary School District	708-000-ECA	4,319	4.72	12/22/04
City of Corona	224-002-ECA	44,594	4.68	12/22/03
City of Monterey	678-000-ECA	13,477	4.68	06/22/03
College of the Canyons <sup>(2)</sup>	021-001-ECA	631,783	4.00	06/22/14
Chabot-Las Positas Community College District <sup>(2)</sup>	650-002-ECA	104,544	4.00	12/22/08
County of Merced	833-000-ECX	1,749,196	3.00	06/22/13
Los Angeles Community College District	839-000-ECX	1,504,834	3.00	06/22/11
City of Redlands	099-001-ECX	1,500,000	3.00	06/22/09
State Center Community College District	856-000-ECX	1,183,864	3.00	06/22/10
Southwestern Community College District	840-000-ECX	1,136,037	3.00	06/22/13
County of Alameda	810-001-ECX	1,031,169	3.00	06/22/13
Antelope Valley Community College District	836-000-ECX	998,321	3.00	06/22/11
City and County of SF-Hetch Hetchy W&P	821-000-ECX	970,626	3.00	12/22/10
County of Solano	824-000-ECX	882,597	3.00	06/22/09
Capistrano Unified School District	820-001-ECX	823,780	3.00	06/22/11
County of Orange	842-000-ECX	805,117	3.00	12/22/09
Mt. San Antonio College	829-000-ECX	773,557	3.00	06/22/08
Del Mar Union School District	818-000-ECX	657,189	3.00	06/22/11
City of Manteca	828-001-ECX	598,611	3.00	06/22/10
County of Orange	842-001-ECX	598,042	3.00	12/22/08
Mt. San Antonio College	829-001-ECX	593,641	3.00	06/22/12
City of San Carlos	815-000-ECX	577,972	3.00	06/22/12
Torrance Unified School District	844-000-ECX	433,730	3.00	06/22/13
County of Riverside	852-000-ECX	411,719	3.00	12/22/04
Contra Costa County	477-001-ECX	354,990	3.00	06/22/10
Clovis Unified School District	097-012-ECX	340,523	3.00	12/22/07
Contra Costa County	477-002-ECX	287,095	3.00	06/22/09
Piner-Olivet Union School District	865-000-ECX	261,930	3.00	06/22/14
City of Culver City	853-000-ECX	252,269	3.00	12/22/06
City of Fresno Water Division	843-000-ECX	237,405	3.00	12/22/05
Kerman Unified School District	262-001-ECX	235,021	3.00	12/22/10
City of Redlands	099-002-ECX	221,572	3.00	12/22/06
City of San Buenaventura	823-000-ECX	216,817	3.00	06/22/06
Apple Valley Unified School District	831-000-ECX	180,522	3.00	12/22/09
City of Modesto	173-003-ECX	173,692	3.00	06/22/07
City of Westlake Village	822-000-ECX	163,551	3.00	12/22/09
Capistrano Unified School District	820-000-ECX	150,418	3.00	12/22/08
City of Bellflower	841-000-ECX	128,502	3.00	12/22/06
Middletown Unified School District	837-000-ECX	116,230	3.00	06/22/13
City of Auburn	826-000-ECX	106,723	3.00	12/22/11
Sierra Joint Community College District	835-001-ECX	104,838	3.00	06/22/09
Barstow Unified School District	859-000-ECX	99,499	3.00	12/22/05

(1) Semiannual loan repayment dates are June 22 and December 22 of each year.

(2) Not yet in repayment because loan amounts are still being disbursed. Final maturity date is estimated, and principal may increase as funds are disbursed.

<b>Initial 2003A Borrower</b>	<b>Loan Number</b>	<b>Outstanding Principal Amount</b>	<b>Interest Rate</b>	<b>Final Maturity Date<sup>(1)</sup></b>
Sutter Extension Water District	861-000-ECX	\$ 90,354	3.00%	06/22/13
County of Mendocino	816-000-ECX	81,536	3.00	12/22/07
Town of San Anselmo	546-001-ECX	78,690	3.00	12/22/10
County of Humboldt	862-000-ECA	66,990	3.00	12/22/11
City of El Centro	814-000-ECX	62,370	3.00	06/22/07
Antelope Valley Community College District	836-001-ECX	54,882	3.00	12/22/08
Cutten Elementary School District	866-000-ECA	45,962	3.00	06/22/10
City of Napa	854-000-ECX	34,449	3.00	12/22/04
City of Sausalito	838-000-ECX	28,394	3.00	06/22/13
City of San Juan Capistrano	813-000-ECX	6,148	3.00	06/22/03
City of Manteca <sup>(2)</sup>	828-000-ECX	1,639,153	3.00	06/22/11
City and County of San Francisco <sup>(2)</sup>	817-000-ECX	1,063,202	3.00	06/22/10
Sierra Joint Community College District <sup>(2)</sup>	835-000-ECX	1,052,048	3.00	06/22/11
Antelope Community College District <sup>(2)</sup>	836-002-ECX	372,900	3.00	06/22/13
City of Oakland <sup>(2)</sup>	610-002-ECX	237,617	3.00	06/22/11
City of Santa Rosa <sup>(2)</sup>	101-001-ECX	887,640	3.00	06/22/09
City and County of San Francisco <sup>(2)</sup>	817-001-ECX	729,018	3.00	06/22/08
City of Indio <sup>(2)</sup>	855-000-ECX	144,309	3.00	06/22/09
Rio Linda Union School District <sup>(2)</sup>	857-000-ECX	519,688	3.00	06/22/11
County of Humboldt <sup>(2)</sup>	862-001-ECA	40,063	3.00	06/22/08

<sup>(1)</sup> Semiannual loan repayment dates are June 22 and December 22 of each year.

<sup>(2)</sup> Not yet in repayment because loan amounts are still being disbursed. Final maturity date is estimated, and principal may increase as funds are disbursed.

## **EXHIBIT B**

### **FORM OF 2003A CASH FLOW CERTIFICATE**

**Relating to**

**\$28,005,000**

#### **ENERGY EFFICIENCY MASTER TRUST REVENUE BONDS SERIES 2003A**

Pursuant to Sections 4.5 and 5.7 of the Amended and Restated 2003A Secured Loan Agreement dated April 27, 2005, between the California Infrastructure and Economic Development Bank (the "Issuer"), as successor to the California Consumer Power and Conservation Financing Authority, and the California Energy Resources Conservation and Development Commission (the "Energy Commission"), the undersigned, a duly authorized Representative of the Energy Commission, hereby (a) certifies that, for each six-month period ending March 1 and September 1, commencing with the six-month period ending \_\_\_\_ 1, 20\_\_, (i) the scheduled payments on the Program Loans securing the Series 2003A Bonds which will be available to pay debt service due on the Series 2003A Bonds during each such six-month period (including amounts expected to remain on deposit in the 2003A Loan Repayment Account after a Bond Payment Date, to be applied to the payment of debt service on the immediately succeeding Bond Payment Date within the same Bond Year), plus (ii) any amounts on deposit in the 2003A Surplus Repayments Account, together with estimated interest earnings thereon, which are needed to satisfy the 110% coverage test for such period will at least be equal to 110% of the debt service payable on the Series 2003A Bonds in each such six-month period, as shown in the schedule(s) attached hereto and (b) directs the release of \$ \_\_\_\_ currently on deposit in the 2003A Surplus Repayments Account to the Trustee for deposit into the Master Reserve Account under the Master Trust Agreement. In delivering this 2003A Cash Flow Certificate, all amounts in the 2003A Reserve Account, together with any scheduled releases therefrom and any interest earnings thereon, have been disregarded.

Dated this \_\_\_\_ day of \_\_\_\_, 20\_\_.

**CALIFORNIA ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT  
COMMISSION**

By: \_\_\_\_\_  
Energy Commission Representative

## SCHEDULE I TO 2003A CASH FLOW CERTIFICATE

<b>Date<sup>(1)</sup></b>	<b>Scheduled 2003A Program Loan Repayments</b>	<b>Estimated Amounts on Deposit in the 2003A Surplus Repayments Account</b>	<b>Series 2003A Bond Debt Service</b>	<b>Debt Service Coverage</b>
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<sup>(1)</sup> Semiannual debt service payment dates are September 1 and March 1 of each year. It is assumed that no interest accrues on Program Loans between the scheduled loan repayment date and the corresponding debt service payment date.

**AMENDED AND RESTATED  
APPENDIX A  
2003A DEFINED TERMS**

**“2003A Bond Indenture”** means the Bond Indenture, dated as of April 1, 2003, by and between the Issuer, as assignee of the Authority, and J.P. Morgan Trust Company, National Association, as successor Trustee, as amended or supplemented from time to time.

**“2003A Bonds”** means the California Consumer Power and Conservation Financing Authority Energy Efficiency Master Trust Revenue Bonds, Series 2003A, in the aggregate principal amount of \$28,005,000, issued, authenticated and delivered under and pursuant to the 2003A Bond Indenture.

**“2003A Borrower”** means a Borrower under a 2003A Program Loan Agreement.

**“2003A Cash Flow Certificate”** means an Officer’s Certificate of the Energy Commission certifying that, for each six-month period ending on each Bond Payment Date, commencing with the six-month period in which such certificate is delivered, (i) the scheduled payments on the Program Loans securing the 2003A Bonds which will be available to pay debt service due on the 2003A Bonds during each such six-month period (including amounts expected to remain on deposit in the Loan Repayment Account after a Bond Payment Date, to be applied to the payment of debt service on the immediately succeeding Bond Payment Date within the same Bond Year), plus (ii) any amounts on deposit in the 2003A Surplus Repayments Account, together with estimated interest earnings thereon, which are needed to satisfy the 110% coverage test for such period, will at least be equal to 110% of the debt service payable on the 2003A Bonds in each such six-month period and, if applicable, directing the release of certain amounts then on deposit in the 2003A Surplus Repayments Account to the Trustee for deposit into the Master Reserve Account under the Master Trust Agreement. In delivering the 2003A Cash Flow Certificate, all amounts in the 2003A Reserve Account, together with any scheduled releases therefrom and any interest earnings thereon, are to be disregarded. A form of 2003A Cash Flow Certificate is attached to the 2003A Secured Loan Agreement and the 2003A Bond Indenture as Exhibit B to each of those documents.

**“2003A Collateral”** means (i) all right, title and interest in and to the 2003A Program Loans, including all 2003A Program Loan Repayments and all other proceeds arising from the 2003A Program Loans, (ii) all amounts held from time to time in the 2003A Loan Repayment Account, the 2003A Debt Service Account, the 2003A Reserve Account and the 2003A Surplus Repayments Account established under the 2003A Bond Indenture, and (iii) all amounts held under the Master Trust Agreement which are available for payment of the 2003A Bonds.

**“2003A Continuing Disclosure Agreement”** means the Continuing Disclosure Agreement executed and delivered in connection with the 2003A Bonds.

**“2003A Owner”** means any Owner of a 2003A Bond.



**“2003A Program Loan Agreements”** means all Program Loan Agreements evidencing the 2003A Program Loans, together with all extensions, renewals, modifications or replacements thereof, as permitted in the 2003A Secured Loan Agreement.

**“2003A Program Loan Repayment”** means a loan repayment under a 2003A Program Loan.

**“2003A Program Loans”** means the Program Loans made under the Program and described in Exhibit A to the 2003A Secured Loan Agreement, as such Exhibit A may be revised pursuant to the 2003A Secured Loan Agreement.

**“2003A Reserve Requirement”** means, initially, the amount of \$6,000,000 and thereafter, as of the date of calculation, an amount equal to the greater of (i) the maximum debt service on the 2003A Bonds payable in any Bond year or (ii) 20% of the principal amount of the 2003A Bonds Outstanding.

**“2003A Secured Loan Agreement”** means the 2003A Secured Loan Agreement, dated as of April 1, 2003, by and between the Energy Commission and the Issuer, as assignee of the Authority, as such agreement may be amended or supplemented from time to time.

**“Additional Payments”** means any additional payments designated as such in Section 3.5, or a comparable section, of a Secured Loan Agreement.

**“Authority”** means the California Consumer Power and Conservation Financing Authority, an authority and public instrumentality of the State of California, or any legally authorized assignee thereof (including but not limited to the California Infrastructure and Economic Development Bank) or any board, agency, authority, political subdivision, governmental unit, department or officer succeeding to the principal functions thereof, as such functions pertain to this Bond financing, or to whom the powers conferred upon the Authority shall be given by law.

**“Authority Act”** means California Public Utilities Code Division 1.5 (Sections 3300-3384), as amended from time to time.

**“Authority Representative”** means (a) the Chair of the Authority or its Chief Executive Officer, (b) such other person or persons at the time designated to act on behalf of the Authority in matters relating to the Master Trust Agreement and/or any Bond Indenture as evidenced by a written certificate furnished by the Authority to the Trustee, containing the specimen signature of such person or persons and signed on behalf of the Authority by its Chair or its Chief Executive Officer, or (c) any other duly authorized officer of the Authority whose authority to execute any particular instrument or take a particular action under the Master Trust Agreement and/or any Bond Indenture shall be evidenced to the satisfaction of the Trustee.

**“Bond” or “Bonds”** means any bond or bonds or all the bonds, as the case may be, of the Authority or the Issuer, in one or more series, relating to the Program, issued and secured pursuant to one or more Bond Indentures and secured under the Master Trust Agreement.

**“Bond Counsel”** means Sidley Austin Brown & Wood LLP, San Francisco, California, or other counsel selected by the Issuer and satisfactory to the Trustee and nationally recognized as experienced in matters relating to bonds issued by states and their political subdivisions, the interest on which is exempt from exclusion in gross income for federal income tax purposes.

**“Bond Indenture,”** with respect to each Series of Bonds, means the Bond Indenture or other similar document between the Issuer and a Trustee, pursuant to which a Series of Bonds is issued and delivered.

**“Bond Payment Date”** means March 1 and September 1 of each year, commencing on the date specified in the related Bond Indenture.

**“Bond Payment Transfer Date”** means the day that is three (3) Business Days prior to a Bond Payment Date.

**“Bond Proceeds Account”** means the account by that name established in the custody of a Trustee by a Bond Indenture.

**“Bond Purchase Agreement”** means the bond purchase agreement relating to any Series of Bonds between the Issuer, the Treasurer of the State as agent of sale, and the Original Purchaser of such Series of Bonds.

**“Bond Year”** means the 12-month period to and including March 1 of any year.

**“Book-Entry System”** means the book-entry system maintained by the Securities Depository described in the related Bond Indenture.

**“Borrower”** means any eligible school, hospital, public care institution, unit of local government or other person or entity eligible under the Program which has an executed Program Loan Agreement and whose participation in the Program does not adversely affect the exclusion from federal income tax of interest on the Bonds.

**“Business Day”** *[Conformed to 2005A]* means a day other than (a) a Saturday, Sunday, State holiday or legal holiday, or (b) a day on which banks located in Ohio or Texas, or in any city in which the Principal Trust Office of the Trustee is located, are required or authorized by law to remain closed.

**“Collateral”** means the Program Loans and funds and accounts pledged to the payment of a Secured Loan.

**“Continuing Disclosure Agreement”** means a Continuing Disclosure Agreement relating to a Series of Bonds, between the Energy Commission and the Dissemination Agent named therein, as from time to time amended in accordance with the provisions thereof.

**“Costs of Issuance”** means issuance costs, including but not limited to the following:

- (a) Underwriter’s spread (whether realized directly or derived through purchase of the Bonds at a discount below the price at which they are expected to be sold to the public);
- (b) Counsel fees (including bond counsel, underwriter’s counsel, Issuer’s counsel, Energy Commission’s Counsel and any other specialized counsel fees incurred in connection with the borrowing);
- (c) Financial advisor fees of any financial advisor to the Issuer and financial advisor to the Energy Commission incurred in connection with the issuance of the Bonds;
- (d) Rating agency fees;
- (e) Trustee and paying agent fees;
- (f) Accountant fees and other expenses related to issuance of the Bonds;
- (g) Printing costs (for the Bonds and of the preliminary and final Official Statement relating to the Bonds); and
- (h) Fees and expenses of the Issuer and the Energy Commission incurred in connection with the issuance of the Bonds.

**“Cost of Issuance Account”** means the Cost of Issuance Account created under a Bond Indenture.

**“Date of Delivery”** means the date any Series of Bonds are purchased and delivered to the Original Purchaser.

**“Debt Service Account”** means the account by that name established in the custody of the Trustee by a Bond Indenture.

**“Debt Service Deficiency”** means, as of the date of determination, and with respect to any Series of Bonds, the amount, if any by which the debt service then due or coming due on the next Bond Payment Date for such Bonds exceeds the amount on deposit in the Debt Service Account.

**“Energy Commission”** means the California Energy Resources Conservation and Development Commission, a commission of the State of California, or any board, agency, authority, political subdivision, governmental unit, department or officer succeeding to the principal functions thereof, as such functions pertain to this Bond financing, or to whom the powers conferred upon the Energy Commission by the Energy Conservation Assistance Act shall be given by law.

**“Energy Commission Documents”** means, with respect to any Series of Bonds, the Secured Loan Agreement, the Continuing Disclosure Agreement, and the Program Loan Agreements.

**“Energy Commission Representative”** means (a) the Chair or Vice Chair of the Energy Commission, or its Executive Director or Chief Deputy Director, (b) such other person or persons at the time designated to act on behalf of the Energy Commission in matters relating to the Master Trust Agreement and/or any Secured Loan Agreement as evidenced by a written certificate furnished by the Energy Commission to the Trustee, containing the specimen signature of such person or persons and signed on behalf of the Energy Commission by its Chair, Vice Chair, Executive Director or Chief Deputy Director, or (c) any other duly authorized person of the Energy Commission whose authority to execute any particular instrument or take a particular action under the Master Trust Agreement and/or any Secured Loan Agreement shall be evidenced to the satisfaction of the Trustee or the Issuer, as applicable.

**“Energy Commission Retained Rights”** means the right to obtain the release or modification of any Program Loan but only to the extent permitted by Section 3.8 or comparable sections of a of a Secured Loan Agreement.

**“Energy Conservation Assistance Account”** or **“ECA Account”** means the account created pursuant to the Energy Conservation Assistance Act for the purpose of providing grants and loans for energy efficiency projects in accordance with the Energy Conservation Assistance Act.

**“Energy Conservation Assistance Act”** means the Energy Conservation Assistance Act of 1979, California Public Resource Code Division 15, Chapter 5.2 (Sections 25410-25421), as amended from time to time.

**“Government Obligations”** means the following:

(a) bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed by, the United States of America; and

(b) evidences of direct ownership of a proportionate or individual interest in future interest or principal payments on specified direct obligations of, or obligations on which the full and timely payment of the principal and interest is unconditionally guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian in form and substance satisfactory to the Trustee.

**“Infrastructure Bank Act”** means the Bergeson-Peace Infrastructure and Economic Development Bank Act, constituting Division 1 of Title 6.7 (commencing at Section 63000) of the California Government Code, as now in effect and as it may from time to time hereafter be amended and supplemented.

**“Internal Revenue Code”** means the Internal Revenue Code of 1986, as amended, and, when appropriate, any statutory predecessor or successor thereto, and all applicable regulations

(whether proposed, temporary or final) thereunder and any applicable official rulings, announcements, notices, procedures and judicial determinations relating to the foregoing.

**“Issuer”** means, prior to October 25, 2004, the California Consumer Power and Conservation Financing Authority, and on and after October 25, 2004, the California Infrastructure and Economic Development Bank, a public instrumentality of the State of California, or any successor or assignee.

**“Issuer Documents”** means, with respect to any Series of Bonds, the Secured Loan Agreement and the Bond Indenture, together with the Master Trust Agreement.

**“Issuer Priority Administrative Expenses”** means, with respect to any Series of Bonds, amounts payable in the event the Issuer employs attorneys or incurs other fees, including reasonable counsel fees, charges or expenses for the collection of required payments or the enforcement of the related Bond Indenture or Secured Loan Agreement or the enforcement of the Master Trust Agreement, as well as the costs to indemnify (to the extent permitted by law) and hold harmless the Issuer and its respective members, directors, officers, employees, and agents from and against all such costs, expenses and charges, provided that such costs of enforcement shall be payable solely from pledged Collateral for the applicable Series of Bonds.

**“Issuer Representative”** means (a) the Executive Director of the Chair of the Issuer or the Chair’s Designee, or (b) such other person or persons at the time designated to act on behalf of the Chair or Executive Director of the Issuer in matters relating to the Energy Commission and the Master Trust Agreement and/or any Bond Indenture as evidenced by a written certificate furnished by the Issuer to the Trustee, containing the specimen signature of such person or persons and signed on behalf of the Issuer by its Chair or its Executive Director.

**“Issuer Retained Rights”** means (a) the right to receive any fees and expenses owed to the Issuer, (b) the right of the Issuer to indemnification, (c) the right of the Issuer to receive notices and opinions, (d) the right of the Issuer under opinions, the Master Trust Agreement, the related Bond Indenture or Secured Loan Agreement, and (e) the Issuer’s nonexclusive right to enforce the provisions of the Tax Agreement, provided, that the Issuer shall retain the exclusive right, as the taxpayer pursuant to the Internal Revenue Service Form 8038-G, which shall be completed by or on behalf of the Issuer in connection with the issuance of the 2003A Bonds, to communicate with the Internal Revenue Service in any investigation concerning the 2003A Bonds by the Internal Revenue Service.

**“Loan Repayment Account”** means the Loan Repayment Account by that name established in the custody of the Trustee by a Bond Indenture.

**“Local Jurisdiction Energy Assistance Law”** means California Public Resources Code Division 15, Chapter 5.4 (Sections 25440-25449.4), as amended from time to time.

**“Master Administrative Expense and Surplus Account”** means the account by that name established in the custody of the Trustee by the Master Trust Agreement.

**“Master Reserve Account”** means the account by that name established in the custody of the Trustee by the Master Trust Agreement.

**“Master Trust Agreement”** means the Amended and Restated Master Trust Agreement, dated April 27, 2005, by and between the Issuer and J.P. Morgan Trust Company, National Association, as successor Trustee, as amended from time to time and which provides additional security for any issue or series of Bonds pursuant to a Series Certificate executed by an Issuer Representative and an Energy Commission Representative.

**“Material Participant”** means any 2003A Borrower that is obligated to make aggregate debt service payments on its 2003A Program Loans in an amount equal to 10% or more of the aggregate annual debt service on the 2003A Bonds or (2) whose aggregate 2003A Program Loans represent more than 10% of the aggregate principal amount of all 2003A Program Loans pledged as Collateral to any Series of Bonds.

**“Officer’s Certificate”** means a written certificate of the Issuer signed by an Issuer Representative, or of the Energy Commission, signed by an Energy Commission Representative, or of any Borrower signed by an authorized Borrower representative, which certificate shall be deemed to constitute a representation of, and shall be binding upon, the Issuer, the Energy Commission or any Borrower respectively, with respect to matters set forth therein, and which certificate in each instance, including the scope, form, substance and other aspects thereof, is acceptable to the Trustee.

**“Official Statement”** means the offering document used in connection with any Series of Bonds.

**“Opinion of Bond Counsel”** means a written opinion of Bond Counsel addressed to the Issuer and the Trustee, as applicable.

**“Opinion of Counsel”** means a written opinion of any legal counsel having expertise in the matters covered in such opinion and acceptable to the Issuer and the Trustee, and who may be an employee of or counsel to the Issuer or the Trustee.

**“Original Purchaser”** means, with respect to any Series of Bonds, the original purchaser or representative of the original purchasers of the Bonds under the related Bond Purchase Agreement.

**“Outstanding”** means when used with respect to Bonds, as of the date of determination, all Bonds theretofore authenticated and delivered under the Bond Indenture, except:

(a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation as provided in the Bond Indenture;

(b) Bonds for whose payment or redemption money or Government Obligations in the necessary amount has been deposited with the Trustee in trust for the Owners of such Bonds as provided in the Bond Indenture, provided that, if such Bonds are to be redeemed, notice of such redemption has been duly given pursuant to the Bond Indenture or provision therefor satisfactory to the Trustee has been made;

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under the Bond Indenture; and

(d) Bonds alleged to have been destroyed, lost or stolen which have been paid as provided in the Bond Indenture.

**“Owner”** means, with respect to a Series of Bonds, any bondholder, holder or beneficial owner of any Outstanding Bond as provided in the related Bond Indenture.

**“Participants”** means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository in the Book-Entry System, as such listing of Participants exists at the time of such reference.

**“Permitted Investments”** means any of the following, if and to the extent the same are at the time legal for investment of funds held under the Master Trust Agreement and any Bond Indenture, or any other investments permitted by law:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds and notes of the State, or those for which the faith and credit of the State are pledged for the payment of principal and interest, provided that the ratings of such bonds and notes of the State are rated within the top three rating categories, ignoring modifiers, by S&P, Moody’s and Fitch, if rated by Fitch.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, State water district, State water storage district, irrigation district in the state, municipal utility district, or school district of the State, provided that the ratings of such bonds or warrants are rated within the top three rating categories, ignoring modifiers, by S&P, Moody’s and Fitch, if rated by Fitch.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under that act, obligations of the Federal Home Loan Mortgage Corporation, in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended, and bonds, notes, and other obligations guaranteed by the Commodity Credit Corporation for the export of California agricultural products under the Commodity Credit Corporation Charter Act as amended.

(f) Commercial paper which at the time of investment is “prime” quality as defined by a nationally recognized organization that rates these securities. Eligible paper is

further limited to issuing corporations or trusts approved by the State of California Pooled Money Investment Board that meet the conditions in either subparagraph (A) or subparagraph (B):

(A) Both of the following:

- (i) Organized and operating within the United States.
- (ii) Having total assets in excess of five hundred million dollars (\$500,000,000).

(B) Both of the following:

- (i) Organized within the United States as a special purpose corporation or trust.
- (ii) Having program wide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond.

Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation or trust, nor exceed 30 percent of the resources of an investment program. At the request of the State of California Pooled Money Investment Board, the investment shall be secured by the Issuer by depositing with the State Treasurer securities authorized by California Government Code Section 53651 having a market value at least 10 percent in excess of the amount of the state's investment.

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a federally or state-chartered bank or savings and loan association, a state-licensed branch of a foreign bank, or a federally or state-chartered credit union, which may include the Trustee and its affiliates. For the purposes of this definition, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600) of the California Government Code.

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Bank loans and obligations guaranteed by the Export-Import Bank of the United States.

(k) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1001 and following) and eligible for resale to the Student Loan Marketing Association established



pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. Sec. 1087-2).

(l) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank of Puerto Rico.

(m) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision (m) shall be within the top three ratings of a nationally recognized rating service.

(n) The California State Surplus Money Investment Fund established pursuant to California Government Code Section 16470, as amended from time to time.

(o) Repurchase agreements with entities rated in top three rating categories, ignoring modifiers, by S&P, Moody's and Fitch, if rated by Fitch.

(p) Investments or other contractual arrangements with corporations, financial institutions or national associations within the United States, provided that the senior long-term debt of such corporations, institutions or associations or any guarantor of the debt of such corporations, institutions, or associations ("providers"), is rated within the top two rating categories, ignoring modifiers, by S&P, Moody's and Fitch, if rated by Fitch; or such investments or other contractual arrangements are collateralized by Permitted Investments of the type and in the amounts consistent with maintaining the then-current ratings on the 2005A Bonds by each of the Rating Agencies, but in all events the senior long-term debt of such providers shall be rated in the top three rating categories, ignoring modifiers, by S&P, Moody's and Fitch, if rated by Fitch.

(q) Forward purchase agreements providing for the purchase of obligations described in (a) through (d) above with corporations, financial institutions or national associations within the United States rated in the top three rating categories, ignoring modifiers, by S&P, Moody's and Fitch, if rated by Fitch.

(r) Money market funds, including funds for which the Trustee, its parent holding company, if any, or any affiliates or subsidiaries of the Trustee or such holding company provide investment advisory or other management services and for which it may receive a fee, rated in the top three rating categories, ignoring modifiers, by S&P, Moody's and Fitch, if rated by Fitch.

**"Person"** means any natural person, firm, association, corporation, partnership, joint stock company, a joint venture, trust, unincorporated organization or firm, or a government or any agency or political subdivision thereof or other public body.

**"Principal Trust Office"** means the principal office of the Trustee, which is currently located in San Francisco, California except that, with respect to presentation of Bonds for payment or for registration of transfer and exchange, such term shall mean the office or agency

of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

**“Priority Administrative Expenses”** means, with respect to any Series of Bonds, all Trustee Priority Administrative Expenses and all Issuer Priority Administrative Expenses.

**“Program”** means the energy efficiency loan program established and administered by the Energy Commission to make funds available to Borrowers for Projects pursuant to the Energy Conservation Assistance Act or the Local Jurisdiction Energy Assistance Law, as applicable.

**“Program Loan or Program Loans”** means any loan or loans made by the Energy Commission to Borrowers under the Program in accordance with a Program Loan Agreement with each Borrower.

**“Program Loan Agreement”** means any agreement evidencing a Program Loan or Program Loans, made by the Energy Commission to any Borrower, together with all extensions, renewals, modifications or replacements thereof.

**“Program Loan Repayment”** means each semi-annual amount to be paid by a Borrower in repayment of a Program Loan pursuant to its respective Program Loan Agreement.

**“Project” or “Projects”** means any energy conservation measures which are eligible for funding under the Energy Conservation Assistance Act or Local Jurisdiction Energy Assistance Law, as applicable.

**“Rating Agency”** means any nationally recognized rating agency providing a rating on any Series of Bonds.

**“Rebate Account”** means any account established pursuant to a Bond Indenture or a Secured Loan Agreement with respect to rebate payments required to be rebated to the U. S. Government under Section 148(f) of the Internal Revenue Code.

**“Record Date”** means the fifteenth day (whether or not a Business Day) of the calendar month preceding the date on which an interest payment on a Series of Bonds is to be made, whether or not such day is a Business Day.

**“Reserve Account”** means the account by that name established in the custody of the Trustee by a Bond Indenture.

**“Reserve Deficiency”** means, as of the date of determination, and with respect to any Series of Bonds, the amount, if any, by which the Reserve Requirement for such Bonds exceeds the amount on deposit in the Reserve Account for such Bonds.

**“Reserve Requirement,”** means the requirement so established under any Bond Indenture with respect to any Reserve Account for any Series of Bonds.

**“Secured Loan”** means a loan made by the Issuer to the Energy Commission under a Secured Loan Agreement.

**“Secured Loan Agreement”** means a Secured Loan Agreement between the Issuer and the Energy Commission relating to repayment of a Series of Bonds, as amended and supplemented from time to time.

**“Secured Loan Repayment”** means any payment of a Secured Loan required to be made pursuant to the terms of a Secured Loan Agreement.

**“Securities Depository”** means The Depository Trust Company, New York, New York, or its nominee, and its successors and assigns, or other securities depository under a Book-Entry System described in a Bond Indenture.

**“Series Certificate”** means with respect to any Series of Bonds, a certificate, in substantially the form attached as Exhibit A to the Master Trust Agreement, delivered by an Issuer Representative and an Energy Commission Representative stating that such Series of Bonds is entitled to the benefits of the Master Trust Agreement.

**“Series of Bonds”** or **“Bonds of a Series”** or words of similar meaning means the Series of Bonds authorized by a Bond Indenture and secured under the Master Trust Agreement.

**“State”** means the State of California.

**“State Treasurer”** means the Treasurer of the State of California.

**“Subordinate Administrative Expenses”** means:

(a) *Issuer Fees and Costs.* The reasonable fees and costs incurred by the Issuer, including but not limited to Issuer staff costs and costs of the State Attorney General and any other attorney or consultant representing the Issuer in connection with the Master Trust Agreement, any applicable Secured Loan Agreement, Bond Indenture, Tax Agreement or Series of Bonds, including any and all expenses incurred in connection with the authorization, issuance, sale and delivery of any such Bonds, or in connection with any litigation or other proceeding (other than costs of litigation to enforce the bond financing documents as described in the definition of “Issuer Priority Administrative Expenses” above) which may at any time be instituted involving the Master Trust Agreement, any applicable Secured Loan Agreement, Bond Indenture, Tax Agreement or Series of Bonds, or any of the other documents contemplated thereby, or in connection with the inspection of the Energy Commission’s books, records, accounts or other information related to the Program Loans or otherwise in connection with the administration of any applicable Secured Loan Agreement; and

(b) *Energy Commission Fees and Costs.* All reasonable administrative and legal fees and costs of the Energy Commission incurred in connection with the administration and compliance with a Secured Loan Agreement, Bond Indenture, Master Trust Agreement, Bonds and Program Loans, including without limitation, fees and costs of rebate analysts and fees and costs related to books, records and audits of transactions relating to Program Loans and any amounts required to implement the Program, to enforce the Program Loans (including all

pledged Collateral) and take all appropriate actions to secure payments thereunder, and to make new Program Loans from the ECA Account with Bond proceeds.

**“Supplemental Bond Indenture”** means any indenture supplemental or amendatory to a Bond Indenture entered into by the Issuer and the Trustee delivered in accordance with the provisions of a Bond Indenture.

**“Supplemental Master Trust Agreement”** means any trust agreement supplementary to or amendatory of the Master Trust Agreement duly executed and delivered in accordance with the provisions of the Master Trust Agreement.

**“Surplus Repayments Account”** means the account by that name established in the custody of the Trustee by a Bond Indenture.

**“Tax Agreement”** means the Tax Certificate and Agreement relating to any Series of Bonds, between the Issuer and the Energy Commission.

**“Trust Estate”** means the trust estate described in the granting clauses of a Bond Indenture.

**“Trustee”** means J.P. Morgan Trust Company, National Association, as successor trustee under the Master Trust Agreement and as trustee under any Bond Indenture, or its assign or successor appointed pursuant to the Master Trust Agreement or the applicable Bond Indenture.

**“Trustee Priority Administrative Expenses”** means, with respect to any Series of Bonds:

- (a) *Trustee Fees and Trustee’s Professional Fees.* All reasonable fees, charges and expenses of the Trustee and any authenticating agents, paying agents, registrars, dissemination agents, counsel, accountants, or other Persons employed by the Trustee under the related Bond Indenture or attributable to the related Series of Bonds under the Master Trust Agreement;
- (b) *Costs of Enforcement.* Amounts payable in the event the Trustee employs attorneys or incurs other fees, including reasonable counsel fees, charges or expenses for the collection of required payments or the enforcement of the related Bond Indenture or Secured Loan Agreement or the Master Trust Agreement, provided that such costs of enforcement shall be payable solely from pledged Collateral for the applicable Series of Bonds;
- (c) *Indemnification of Trustee, Bond Registrar and Paying Agent.* Amounts payable (to the extent permitted by law and solely from pledged Collateral for the applicable Series of Bonds) with regard to indemnifying the Trustee, the Bond Registrar and any Paying Agent and their respective officers, directors, members, employees, attorneys and agents for, and to hold them harmless against, any loss, liability or expense including legal fees and expenses incurred without negligence or willful default on their part arising out of or in connection with the acceptance or administration of the trusts imposed by the related Bond Indenture or Secured

Loan Agreement or the Master Trust Agreement, including performance of their duties, including the costs and expenses of defending themselves against any claims or liability in connection with the exercise or performance of any of their powers or duties thereunder; and

- (d) *Advances By Trustee.* The amount of all advances of funds made by the Trustee under the provisions of the related Bond Indenture, with interest thereon at the prime rate announced from time to time by the Trustee.